IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1899 OF 2006.

Mrs.Suman Rohidas Jawalkar ..Petitioner

versus

Kundlik Baburao Jawalkar ..Respondent.

Shri D.M.Gupte for the Petitioner

Shri Balkrishna Joshi for the Respondent No.1

Mr. D.S.Mhaispurkar, APP for State

Coram : S.B.Mhase &
S.R.Sathe, JJ.
Dated : 29th November, 2006

P.C.

1. The petitioner approached to this Court for direction that the respondent Nos.2 to 4 to take necessary action in respect of the complaint made by the petitioner against the respondent No.1 on 22.4.2005. He has further prayed to take further action against the Officers who were present on 5.4.2004 in Haveli Police Station, Pune for abusing/beating the petitioner and her family members and asking illegal money and threatening her.

2. It is the case of the petitioner that she has given an information of cognizable offence to the police station on 21.1.2004 and on 22.1.2004.

She states that on 3.4.2004 Mr.Rohidas Pandurang Jawalkar had been called at the police station and beaten by the police officer. It is pertinent to note that the application dated Nil was submitted to the Chief Secretary, Maharashtra State, wherein it is stated that on 21.1.2004 one Kundalik Baburao Jawalkar and the family members entered the house of petitioner and snatched away the two tolas mangalsutra of the petitioner and the complaint in that respect has been filed in the police station and the police have obtained her thumb impression on a blank paper. It is further stated in the said application that on 5.4.2004 the complainant's husband and brother were called at the police station and the police station officers have beaten the husband and brother with sticks and blows and said that your wife is chapter and she is not within the control and thus they have driven them away. It is further stated that thereafter police constable Pathak approached to them and said that accept Rs.2000/- and keep silence and forget about the mangalsutra and don't come to the police station. It is further stated that since the offence has not been investigated appropriate steps be taken.

2. In this matter notice was issued to the police station. It is pertinent to note that the police officers have produced the police statement recorded on 22.1.2004. From the said statement it appears that on 21.1.2004 at about 1 O'Clock when the petitioner was preparing cowdung slabs, used for fire (Gowrya) one Lata Kundalik Jawalkar who is resident of nearby area walked on that cowdung slabs and therefore there was abuses and beating by hand. In the evening at about 10.00 p.m. the husband of the said lady called her at the shop and assaulted her by stick on right hand. Thus, from the statement and the complaint dated 22.1.2004 what is disclosed is of non cognizable offence and the police have registered the non cognizable offence No.66 of 2004 under Section 223, 504 and 506 of I.P.C. It is further noticed from the statement of the husband of the petitioner Rohidas Pandurang Jawalkar, dated 3.4.2004 that he complained to the police that on 2.4.2004 at 7 O'Clock in the evening when he was coming from Khalapur village Kundalik Baburao Jawalkar and Latabai Kundalik Jawalkar, Guddi Kundalik Jawalkar and Appa Kundalik Jawalkar have beaten him with hand and abused him and threatened him and therefore non cognizable case

under section 223, 504 and 506 was registered. It further reveals that the statement of the petitioner was recorded on 30.3.2004 which also discloses as non cognizable offence. On going through this statement and the complaint which is made to the Chief Secretary, it reveals self contradiction in the complaint lodged by the petitioner. Stories which are disclosed to the police are absolutely different than the stories which are communicated to the Chief Secretary and the possibility cannot be ignored that since the police have registered the non cognizable case, to implicate accused persons a representation containing serious allegations has been made to the Chief Secretary by the petitioner and thereafter the petition has been filed in this Court.

3. On going through the material on record, we find that the case of the petitioner is not consistent so as to direct further investigation into the case. What we find is that initially non cognizable offence has been reported and therefore police have not taken the cognizance. If such improved attempts are taken into consideration by this court under Article 226 it will be very

difficult for any officer to conduct the investigation. Self-discrepant material produced by the petitioner shows that the facts are disputed one. It is well settled law that when facts are not consistent and are disputed one, the court should not consider the same under Article 226. Therefore, we refrain to entertain the petition. However, it will be open for the petitioner if he desires to take the appropriate steps before the Magistrate. Petition is accordingly disposed of.

(S.R.Sathe, J.) **(S.B.Mhase, J.)**